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State of California
AIR RESOURCES BOARD

Fourth Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER ADOPTION OF EMISSION STANDARDS AND
TEST PROCEDURES FOR NEW 2001 AND LATER SPARK-IGNITION MARINE
ENGINES**

Public Hearing Date:	December 10, 1998
First Internet Posting Date:	June 21, 1999
First Public Availability Date:	June 28, 1999
Deadline for first Public Comment:	July 15, 1999
Second Internet Posting Date:	July 30, 1999
Second Public Availability Date:	August 02, 1999
Second Deadline for Public Comment:	August 17, 1999
Third Internet Posting Date:	December 22, 1999
Third Public Availability Date:	December 22, 1999
Third Deadline for Public Comment:	January 17, 2000
Fourth Internet Posting Date:	April 12, 2000
Fourth Public Availability Date:	April 12, 2000
Fourth Deadline for Public Comment:	May 1, 2000

This notice announces a fourth supplemental period in which the public may comment on additional modifications being proposed for the "Spark-Ignition Marine Engines Regulations". No action by the public is necessary unless persons wish to comment on the additional modifications described herein.

At a public hearing held December 10, 1998, the Air Resources Board (ARB or the Board) considered adopting sections 2440 through 2448, Title 13, California Code of Regulations ("CCR") and the "California Exhaust Emission Standards and Test Procedures for 2001 Model Year and Later Spark-Ignition Marine Engines" ("Test Procedures"). The purpose of the regulations and test procedures is to reduce emissions of hydrocarbons and oxides of nitrogen from spark-ignition marine engines, specifically outboard marine and personal watercraft engines. The proposed regulatory action is described in detail in the Staff Report, released October 23, 1998, and available at the ARB's website at www.arb.ca.gov/carbis/regact/marine/isor.wpd.

The Board's Action. At the conclusion of the hearing, the Board adopted Resolution 98-63, in which it approved the originally proposed regulations with several modifications. The resolution directed the Executive Officer to incorporate the modifications into the proposed regulatory texts, with such other conforming modifications as may be appropriate, and to make

the modified text available for a supplemental comment period. The proposed modifications were made available through two notices of modified text with supplemental comment deadlines of July 15, 1999 and August 17, 1999, respectively. Several additional written comments were received that specifically addressed the proposed modifications. The ARB responded to these comments, proposed further modifications as appropriate, adopted the final regulations by Executive Order on October 20, 1999, and submitted them to California's Office of Administrative Law (OAL) on October 22, 1999.

OAL Action and ARB Response. On December 8, 1999, the OAL approved all of the proposed regulatory sections with the exception of section 2443.3. Section 2443.3 describes the requirements for the environmental label/consumer notification portion of the regulations (hang-tag). The OAL determined that the period of applicability was not clear in this section and that it would need to be clarified to obtain the OAL's approval. Specifically, the OAL was concerned that 2004 might be the year intended for subdivision (b)(2), and that the criteria for moving the 2004 date forward must be more clearly defined.

In response to the OAL's concerns, the ARB proposed further modifications, and by a notice released December 22, 1999, made them available for a public comment period ending January 17, 2000. The ARB received two comment letters specifically addressing the proposed modifications. The ARB responded to these comments, adopted the final regulation order for section 2443.3 on February 17, 2000, and submitted it to the OAL February 18, 2000. On April 3, 2000, the OAL rejected the section as submitted. The OAL's principal concern was that the provision for expiration of the two-tier labeling provision -- in the model year after either an outboard or personal watercraft engine certifies to the 2008 (Tier III) exhaust emission standard -- had not been subject to public comment.

Additional Modifications. To address OAL's concerns, staff is proposing additional clarifying modifications to the regulatory text consistent with the Board's intent in approving the regulations. The ARB agrees with manufacturers' suggestions that "the date" be modified to "the first model year after the date." Throughout the marine engine regulations, manufacturers' duties are triggered by the model year for which they are producing engine families. The ARB had intended that the exempted manufacturers' new obligations -- to provide hang tag facsimiles and owners' manual sections depicting all three labels with their certification applications -- would be applicable in a given model year. Manufacturers will need until the next model year to adjust their certification applications to switch from the optional two-tier facsimile hang tag option to the mandatory three-tier facsimile. Also proposed are modifications to correct two typographical errors.

Text of the Proposed Additional Modifications to "Spark-Ignition Marine Engine Regulations" Section 2443.3

Section 2443.3, with the additional modifications shown, is set forth below. All regulatory documents, including this notice, are available online at the ARB's Internet site for the Spark-Ignition Marine Engines — <http://www.arb.ca.gov/regact/marine/marine.htm>. Printed copies are also available and may be obtained from Ms. Angela Iniguez, Mobile Source Control

Division, at telephone (626) 575-6632 or fax (626) 575-6686.

NOTE: The following text shows modifications to the text of the section that the Air Resources Board (ARB) submitted to California's Office of Administrative Law (OAL) on October 22, 1999, which OAL rejected on December 8, 1999, and April 3, 2000. Consequently, and for simplicity, the text as modified through the three prior comment periods ending July 15, 1999, August 17, 1999, and January 17, 2000, appear here as plain text. Modifications proposed in this fourth comment period are shown in **bold underline** to indicate proposed additional text, and in **~~bold-strikeout~~** to show proposed deleted text. *** indicates subsections with no text changed from that noticed in the previous (third) comment period. Only comments relating to the modifications described in this fourth notice can be considered by the Executive Officer.

Modify section 2443.3, Title 13, California Code of Regulations ("CCR") and the "California Exhaust Emission Standards and Test Procedures for 2001 Model Year and Later Spark-Ignition Marine Engines as follows:

Chapter 9 Off-Road Vehicles and Engines Pollution Control Devices

Article 4.7. Spark-Ignition Marine Engines

§2443.3 Environmental Label/Consumer Notification Requirements

(a) ***

(b) ***

(1) ***

(2) For outboard engines greater than 130 horsepower, facsimiles of only the "Low Emission Engine" and "Very Low Emission Engine" labels described in sections 2443.2(c)(1)(B)~~I~~(I) and (ii) need to be displayed on the nonpermanent label until the earlier of:

(A) the 2004 model year; or

(B) **the first model year after** the date the ARB certifies the first outboard engine family greater than 130 horsepower to the 2008 model year standards.

(3) For personal watercraft, facsimiles of only the "Low Emission Engine" and "Very Low Emission Engine" labels described in sections 2443.2(c)(1)(B)~~I~~(I) and (ii) need to be displayed on the nonpermanent label until the earlier of:

(A) the 2004 model year; or

(B) **the first model year after** the date the ARB certifies the first personal watercraft engine family to the 2008 model year standards.

- (4) ***
- (c) ***
- (d) ***

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code.

Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

Comments and subsequent action. The additional modifications above are being made available for a fourth supplemental comment period in accordance with section 11346.8 of the Government Code. In Resolution 98-63, the Board directed the Executive Officer to adopt sections 2440 through 2448, as approved, after making the modified regulatory language available to the public for comment for a period of at least 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make further modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if the Executive Officer determines that this is warranted.

Written comments on the proposed additional modifications must be submitted to the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, no later than the deadline for public comment identified above, for consideration by the Executive Officer prior to final action. Only comments relating to the additional modifications made available with this notice will be considered by the Executive Officer.

Robert H. Cross, Chief
Mobile Source Control Division

Date: April 7, 2000